IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 36177 of 2007(F)

PETITIONER:

SHAFI, S/O. ABUTHALIB,
ANJILIMOOTTIL VEEDU, NEAR RAILWAY STATION,
EDAMON MURI, EDAMON VILLAGE.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)
SRI.R.JAYAKRISHNAN
SRI.S.PRASANTH

RESPONDENTS:

RAJEENA BEEGUM, D/O.FATHIMA BEEVI,
RESIDING AT CRESANT, NADUKKAYAL, P.P.M. (P.O),
PUNALUR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.36177 OF 2007

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Dated this the 7th day of December 2007

JUDGMENT

This writ petition is filed for a direction to the Sub Court, Kottarakkara to dispose of A.S.No.148 of 2005 and I.A.No.1635 of 2006 in unnumbered appeal as expeditiously as possible. The plaintiffs instituted a suit for declaration and injunction and the defendant filed a counter claim in the very same suit claiming partition. The court below allowed the counter claim and ordered division of the properties and dismissed the declaratory suit filed by the plaintiffs. The first plaintiff has preferred an appeal against the decree for partition and it is pending as A.S.No.148 of 2005. Then with a delay of 465 days she has filed appeal challenging the judgment of the Munsiff's Court, Kottarakkara refusing the prayer for declaration. It has to be stated that both the matters may have to be heard together and the decision in one case may affect the decision in the other. That does not mean it has to be indefinitely postponed.

Therefore I direct the Sub Court, Kottarakkara to dispose of I.A.No.1635/2006 in unnumbered appeal first within a period of one month

from today and thereafter in case the delay is condoned and appeal is numbered, hear and dispose of that appeal along with A.S.No.148 of 2005 within a time frame of 3 months from that day.

Writ petition is disposed of accordingly.

M.N.KRISHNAN, JUDGE

Cdp/-